

CONRAD PETERMANN
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FILED

JUN 30 2006

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Guardian ad Litem for Petitioner Jon Scott Dunkle

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JON SCOTT DUNKLE,

Petitioner,

vs.

EDDIE YLST, Acting
Warden of California State
Prison at San Quentin,
Respondent

C 06 4115

Case No: DEATH PENALTY CASE

Request by Guardian Ad Litem for
Incompetent Prisoner for
Appointment of Counsel in
California Death Sentence Case
and for Stay of Execution of Death
Sentence

Pursuant to Local Rule 2254-23(b), I, Conrad Petermann, as Guardian ad Litem for Jon Scott Dunkle, requests that this Court appoint qualified counsel to represent him in federal habeas corpus proceedings that will be initiated in his behalf to seek relief from the judgment of conviction and sentence of death imposed against him by the San Mateo County Superior Court.

Pursuant to Local Rule 2254-24(a), in order to permit the appointment of counsel, and the preparation, filing and

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NORTHERN DISTRICT OF CALIFORNIA
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adjudication of a federal habeas corpus petition on his behalf, I further request that the Court stay execution of Mr. Dunkle's sentence and all court and other proceedings related to execution of that sentence, including preparations for the execution and the setting of an execution date, until final disposition in this Court of the petition to be filed on his behalf.

This request is based on my attached declaration.

DATED: June 28, 2006



Conrad Petermann
Guardian ad Litem for Jon Scott Dunkle

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Guardian ad Litem for Petitioner Jon Scott Dunkle

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JON SCOTT DUNKLE,
Petitioner,

vs.

EDDIE YLST, Acting
Warden of California State
Prison at San Quentin,
Respondent

Case No: _____

DEATH PENALTY CASE

Declaration of Guardian Ad Litem
for Incompetent Prisoner in
Support of Request for
Appointment of Counsel in
California Death Sentence Case
and for Stay of Execution of Death
Sentence

I, Conrad Petermann, in support of my request that this Court appoint counsel to represent Mr. Dunkle in federal habeas corpus proceedings that will be initiated on his behalf, and stay execution of his death sentence, declare under penalty of perjury:

1. Mr. Dunkle was convicted and sentenced to death on February 7, 1990. (*People v. Dunkle*, San Mateo County Superior Court, State of California, Criminal Case number C-17651-01.)

He is incarcerated at San Quentin Prison, San Quentin, California.

2. On July 24, 2002, the California Supreme Court appointed me as Mr. Dunkle's guardian ad litem "for the limited purpose of preparing and pursuing defendant's habeas corpus petition."

3. Mr. Dunkle's conviction and death sentence were affirmed on direct appeal by the California Supreme Court on August 4, 2005. (*People v. Dunkle*, S014200.) A petition for writ of certiorari was filed in his behalf in the United States Supreme Court. (Supreme Court No. 05-9313.) At the request of the United States Supreme Court, my cocounsel and I filed a motion seeking the court's permission to file the cert. petition *in forma pauperis* without an affidavit of indigency from Mr. Dunkle. In that motion, we explained that Mr. Dunkle does not have funds to retain counsel, that he was found incompetent by the California state courts during the pendency of his appeal, and that the California Supreme Court had appointed me his guardian ad litem in his state habeas corpus proceeding. The United States Supreme Court granted our motion and accepted the cert. petition as a filing *in forma pauperis*. The petition for certiorari was denied on April 24, 2006.

4. On October 21, 2003, I filed on Mr. Dunkle's behalf a petition for writ of habeas corpus in the California Supreme Court. (*In re Dunkle*, S119946.) That petition is pending. I am preparing a request for counsel now in anticipation that the California Supreme Court may deny the petition, thereby causing

the limited time for Mr. Dunkle to seek federal review to begin running.

5. If the California Supreme Court denies Mr. Dunkle's petition for writ of habeas corpus, Mr. Dunkle will need counsel to file a petition for habeas corpus in this Court on Mr. Dunkle's behalf, alleging federal constitutional errors that entitled him to relief from the judgment of conviction and sentence of death. He needs the assistance of counsel in preparing and litigating this petition.

6. The attorneys who represented him in the state court proceedings are not available to represent him in these federal habeas corpus proceedings.

7. Mr. Dunkle is indigent and does not have the assets to retain an attorney to represent him in these proceedings.

8. He has not previously sought habeas corpus relief in this matter from this Court or any other federal court.

DATED: June 28, 2006



Conrad Petermann
Guardian ad Litem for Jon Scott Dunkle

CONRAD PETERMANN
323 East Matilija Street
Suite 110, PMB 142
Ojai, CA 93023

CASE NUMBER:

DECLARATION OF SERVICE

I, the undersigned, say: I am a citizen of the United States, a resident of Ventura County, over 18 years of age, not a party to this action and with the above business address. On the date executed below, I served the *Request by Guardian Ad Litem for Incompetent Prisoner for Appointment of Counsel in California Death Sentence Case and for Stay of Execution of Death Sentence, Declaration of Guardian Ad Litem for Incompetent Prisoner in Support of Request for Appointment of Counsel in California Death Sentence Case and for Stay of Execution of Death Sentence and Proposed Order Staying execution of Death Sentence and Referring the Matter to the Selection Board for Suggestion of Appointed Counsel* by depositing a copy thereof in a sealed envelope, postage thereon fully prepaid, in the United States Mail at Ojai, California. Said copies were addressed as follows:

Department of Justice
Attorney General's Office
Attn: René A. Chacón
Suite 11000
455 Golden Gate Avenue
San Francisco, CA 94102-3664

California Appellate Project
101 Second Street
Suite 460
San Francisco, CA 94105

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 28, 2006, at Ojai, California.


Conrad Petermann